(1)

Supreme Court U.S.
FILED

No. 991495 MAR 6 2000

OFFICE OF THE CLERK

In The

Supreme Court of the United States

Estella J. Dunn , Petitioner

v.

Installation Technicians, Incorporated
and
GTE Midwest, Incorporated, Respondents

On Petition For Writ of Certiorari
To The United States Court of Appeals
For The Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

Estella J. Dunn
2409 Laurelwood Dr.
Clearwater, Fl 33763
(727) 726-7915

23 P P

QUESTIONS PRESENTED

1. If the EEOC failed to generate a particular document, but was informed and investigated, can a Federal District Court throw out the majority of the case during trial ?

2. Can a party in a suit in Federal Court request that the jurors be given the actual laws as written before making their determination ?

3. Can instructions to the jury be slanted suddenly in favor of one party over the objections of the other party ?

4. Can a Petitioner testify in Federal District Court as to why she was unable to hire an attorney and was appearing Pro Se ?

5. Can jurors have their questions answered in Federal District Court as to why did a case takes so long to come to trial with out either being dismissed or not answered ?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

TABLE OF CONTENTS

OPINIONS BELOW .....P. 1

JURISDICTION ..... . P. 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....P. 3

STATEMENT OF THE CASE .....P. 5

ARGUMENT .....P. 11

CONCLUSION ....P. 14

INDEX TO APPENDICES

APPENDIX A JUDGEMENT COURT OF APPEALS .....P. 15

APPENDIX B JUDGEMENT DISTRICT COURT.....P. 18

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

1. There are no other opinions other than the opinion of the United States Court of Appeals for the Eighth Circuit when they rendered their decision which appears at Appendix A to the petition and is which is unpublished.

JURISDICTION

Petitioner, Estella J. Dunn, is appealing to The Supreme Court of the United States, the judgements of the United States Court of Appeals for the Eight Circuit and of the United States District Court Western District of Missouri regarding Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963. Petitioner, Estella J. Dunn, is requesting a review by the Supreme Court because she feels that she has been denied the Constitutional Right of a trial by jury due to three-fourths of her case being thrown out at the time of trial.

CONSTITUTIONAL PROVISIONS AND STATUES

1. The Petitioner cites the seventh amendment to The Constitution, " In suits at common law, where the value in controversy shall exceed twenty dollars, the right of a trial by jury shall be preserved..."

2. The Petitioner also sites Title VII of the Civil Rights Act of 1964, Section 703.

" (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, sex, or national origin. "

(c) (3) " to cause or attempt to cause an employer to discriminate against an individual in violation of this section. " and,

Section 704. (a) " It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment "..... " because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this title."

3. The Petitioner also cites a portion of The Equal Pay Act of 1963, Section 3. (d) (1)

" No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which require equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (1) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: "

STATEMENT OF THE CASE

In April, 1993, Petitioner Estella J. Dunn and husband David B. Dunn were hired by Installation Technicians, Inc. (ITI), Respondent, to fill available positions in the Facility Assignment Center (FAC) for GTE Midwest, Inc. (GTE), also a Respondent, at a rate of pay of $16.00 per hour each. On April 12, 1993, David Dunn began work in the FAC in the position of Draftsman working the Missouri One Call System, a cable locating service, at the rate of $16.00 per hr. Approximately eight days later, Estella Dunn was called to report to work at the same job, doing the same job duties, but for $9.00 per hr. Estella refused, stating that she was just as qualified as her husband for this job. Two days later, ITI called and told Estella to report to work for $16.00 per hr. Two other males, not including David Dunn, were working Missouri One Call as draftsmen, making more than $16.00 per hour. Upon Estella's arrival, one of the males returned to an actual draftsman position, leaving two males and one female working Missouri One Call [1,2]

On or about May 8, 1993, ITI was renegotiating their contract with GTE, wherein there were made several changes in salaries. At that time, the two males, David Dunn and Mike Edwards were given new titles of FAC Engineer at the rate of $ 16.65 per hr., however, Estella was left with the title of Draftsman and had her pay changed to $9.65 per hr. All along, all individuals were doing the same work. [1]

---

1. Page 202-208, 218-219 Vol. II Transcript of Trial
2. Disallowed exhibits

There was another work group in the FAC that was also affected by wage change. Facility Assigners were dropped from $16.00+ per hr. to $11.30 per hr. Many resigned immediately and most of the remaining contractors began looking for other positions. Their titles were quickly changed to FAC Engineers with a pay rate of $16.65 per hr.[2]

Estella complained to ITI again, stating that she was qualified to work as an FAC Assigner and was willing to change so she could receive the pay rate and title of $16.65 hr as a FAC Engineer. Estella was told by her ITI field supervisor, T.W. Burris, that her first level GTE supervisor, Jerry Adams, and second level GTE supervisor, Ron Leutner, had refused stating that she was already trained her present job and was needed there. While Ron Leutner was on vacation, Estella took the issue up again with Jerry Adams, her GTE first level supervisor and the acting GTE second level supervisor, Larry Norris, who agreed that the pay treatment was unfair because all three people were doing the same work and instructed ITI to raise Estella's pay to $16.65 per hr. at the title of FAC Engineer .[3]

On July 22, 1993, T.W. Burris, field representative for ITI and Chuck Frey, ITI supervisor, called Estella into a meeting and said that her title and pay was going to be changed to Facility Assigner at $ 11.30 per hr. They said this was at the direction of Ron Leutner acting for GTE, and this directive was without reason and was non-negotiable. They made it clear that Estella's GTE supervisor, Jerry Adams continued to be happy with her work. Estella asked them repeatedly was there any other reason but that she was a

2. Disallowed Petitioner's Exhibit at Trial
3. Page 209-216 Vol. II Transcript of Jury Trial

woman and they could give her none. Estella informed them at that time that she would fight that decision.[4]

Estella then went to the Missouri Commission on Human Rights which referred the claim to the Equal Employment Opportunity Commission (EEOC). The EEOC interviewed Estella by telephone and mailed two perfected charges of discrimination , one against ITI and one against GTE. This was marked as a continuing action case and Estella was asked to sign.

On September 3, 1993, Estella's employment was terminated with the stated reason given of a cutback due to lack of work. On the following work day, a new male employee reported to work as a Facility Assigner with the pay treatment of $16.65 per hr. ITI and GTE continued to hire Facility Assigners at the rate of $16.65 per hr. with the title of FAC Engineer. Many of these new people had been trained on previous jobs by Estella, including her own son.[5]

Estella continued to work with the EEOC regarding this matter , precisely at their instruction and in their time frame, and this matter continued on and on and on. Estella called the EEOC in Washington, D.C. and talked to two EEOC supervisors. One said this matter should have been settled within 30 to sixty days because it was such a clear violation. The other supervisor said, " Did they offer you a lawyer ? "

4. Page 218-219 Vol. II Transcript of Trial
5. Disallowed Petitioner's Exhibit at Trial

Estella said, "No." He said, "They should have." When Estella reported this back to the local EEOC supervisor, Maggie McFadden, she said, " If Washington feels like we should work faster, they should give us more warm bodies. " Some of the local Missouri special investigators and one detective from the EEOC said off of the record that the intentions of the supervisors were to let the time run out on the statute of limitations on my case. Therefore, I contacted both of the Senators from Missouri. They wrote letters to the Director of the Missouri Division of the EEOC and assigned a staff employee to follow up. At the last moment, before the two year limitation was up, Estella received a Right to Sue letter. Estella attempted to retain counsel, but was turned down by every attorney she contacted, who stated that there was too much work involved in women's civil rights cases and the settlements, if there were any at all, were too small to cover their expenses. Given this response, Estella proceeded on her own.[6]

On September 25, 1995, Petitioner Estella Dunn filed a complaint in the United States District Court for the Western District of Missouri alleging violations of Title VII of the Civil Rights Act of 1964 and Equal Pay Act by "changing pay treatment via illogical title changes while leaving the males doing the exact same work at a different title and pay" and " When I objected, I was dismissed 10/1/93 and others less qualified were hired (males). " (October 1, 1993 is in error, the actual termination date was September 3, 1993) [7]

During the week before the trial began, a conference call was

---

6. Disallowed Petitioner's Exhibit at Trial
7. Page 3 Estella's Complaint filed in Federal Court

made by the Judge which included the Respondent's attorneys in which it was discussed that travel to Missouri was going to be difficult because the Plaintiff had contracted double pneumonia with complications resulting in COPD, which also required her to be in a wheelchair and also on oxygen. The easiest way was to travel by car leaving early from Florida. Motions in Limine were faxed to the Plaintiff on the day she was to leave for trial. We called the Judge's office and was told by the assistant not to worry about it. Upon arrival to the trial which began on August 24, 1998, in the Judge's chambers, Motions in Limine by the Defendants were granted, and the majority of the Plaintiff's exhibits were disallowed including the Civil Rights Laws concerning the case. The Judge stated that he would tell the jury the laws in this case himself but he would not allow them to have the written law given to them. The Judge threw out all of Estella's case including the termination and everything thereafter. The Judge further stated no objections would be allowed in front of the jury, but rather the Plaintiff and Defense attorneys must ask to approach the bench and make their objections quietly so the jury could not hear. Also, no mention could be made regarding the fact that Estella had tried to obtain counsel or any offers of the defense for settlement. A potential juror asked the question of why had it taken so long for this case to come to trial. The Judge dismissed him. During the trial, the Judge stated that the jurors might write their questions on paper and send them to him and he would answer them. One of the questions that he refused to answer was why did it take so long for this case to come to trial. He selectively refused to answer the jurors' questions. The Judge faxed the attorneys for the Defense and delivered by courier his proposed Instructions to the Jury. The next day before the court session, he allowed the Defense to change the instructions to the jury to greatly prejudice the case on their behalf.

Estella objected stating that she wanted the Judges instructions. Further, the Judge allowed a huge billboard, placed by the Defense on an easel and left it up in front of the jury as if it were law or creating the suggestion that it bore the weight of law, which prejudiced the jury. This was compounded by the fact that the jury was denied the benefit of reading the law for themselves. The Judge did not state the Civil Rights Laws at any time of the trial or at the end of trial.

On August 27, 1998 a jury of seven people returned a verdict for ITI and GTE regarding Estella's Title VII of the Civil Rights Act of 1964 claim and her Equal Pay Act claim. Plaintiff Estella Dunn's Appeal the United States Court of Appeals for the Eighth Circuit resulted in that Court affirming the decision of the District Court.[8]

---

8. Decision United States Court of Appeals Appendix A
   Decision United States District Court Appendix B

ARGUMENT

The Petitioner, Estella J. Dunn offers these following arguments to The Supreme Court of the United States of America stating that she feels she was denied her constitutional rights to a fair trial by law. Estella feels that this is of national importance because the Civil Rights Laws cover many categories of people such as individual race, color, religion, sex, or national origin. This case illustrates how some of these classifications are being and will be denied due process of law.

1. If an employee feels that their job related civil rights have been violated, attorneys today are advising that the employee must first get permission from the Equal Employment Opportunity Commission (EEOC) before they can file suit. The EEOC is totally in control of all of their procedures and documents. They interview by telephone and send out completed documents for signature only. All legal documents are initiated by the EEOC. Estella complied with all EEOC requirements as instructed by the EEOC. The Court has incorrectly assumed that Estella Dunn had not notified the EEOC of her termination. Estella had made many timely telephone calls to the EEOC and the Special Investigator assigned to her cases. The only document generated by the EEOC was when the cases were given numbers. A document was typed by the EEOC and Estella's instruction was to sign and mail back. Immediately after her termination, supposedly for "lack of work", Estella informed the Special Investigator that a male came in the next work day after her termination. The EEOC stated that they were attempting to negotiate settlement and reinstatement. The Special Investigator called in July of 1994 asking, would Estella accept allowing both companies to share the reimbursement and

reinstatement on the job. Estella J. Dunn said yes. The investigator informed Estella that both companies had rejected the offer. It became obvious at this point that she had been fired . No other special documentation was rendered by EEOC. The EEOC did know that she was terminated. Estella has made it known that she has an exhaustive file of conversations with the EEOC until the right to sue letter was issued on June 29, 1995. The documentation that she has offered has so far been rejected by the Courts.

2. The District Court granted the Defendant's Motion In Limine to Exclude Evidence of Plaintiff's Termination based upon the Defendant's incorrect claim that the Plaintiff had not contacted the EEOC regarding her termination, thereby not exhausting her administrative remedies.

3. The District Court refused to allow the jurors to read or to be told the actual civil rights laws as written. The instruction to the jury was slanted in favor of the defendants even though Estella objected. This error was compounded when the Defense attorney for GTE was allowed to misrepresent the law in his closing statements.[9]

4. One witness for Defendant ITI stated that according to ITI's contract with GTE, that ITI would comply with GTE even if it meant breaking Civil Rights Laws.[10]

---

9. Page 580-581 Vol IV Transcript of Trial
10. Page 440-441 Vol III Transcript of Trial

5. The Petitioner, Estella J. Dunn, was not allowed to make a comment to the jury during testimony that she had tried to hire several lawyers who stated that in women's rights cases the work was exhaustive, hard to win, and if won, settlements were notoriously low. Therefore, they declined.

6. A potential juror, awaiting to be interviewed, asked a question, "why has this case taken so long to come to court ? " The Judge's secretary came into chambers and informed him of the remark. The Judge told her to send him home.

7. Jurors were instructed at the beginning of the trial that if they had a question they could write on a piece of paper and send it to him and he would answer it. Jurors' questions were selectively not answered by the Judge. One juror asked the same question, " Why has this case taken so long to come to trial ? "

8. The District Court of Appeals sites its own cases to justify its decisions.

CONCLUSION

The Petitioner, Estella J. Dunn, requests that The Supreme Court of the United States grant a Writ of Certiorari and review this case for flagrant abuse and violations of the Civil Rights Laws and of the right of a trial by jury of these violations.

The Petitioner, Estella J. Dunn, feels that it is not only her right, but also her duty to stand up for the laws of the United States of America.

The Petitioner, Estella J. Dunn is appealing this case, not just on her own behalf, but feels that it is of national importance because the Civil Rights Laws cover many groups and many individuals cannot afford attorneys and quietly suffer abuse. The system is presently denying due process of law.

APPENDIX A

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 99-1116

Estella J. Dunn,	*	
Appellant,	*	
v.	*	Appeal from the United States District Court
Installation Technicians, Inc.; GTE Midwest	*	for the Western District of Missouri
Appellees	*	[UNPUBLISHED]

Submitted: November 5, 1999

Filed: December 6, 1999

Before McMillian, Richard S. Arnold, and Hansen, Circuit Judges

---

PER CURIAM

---

1. The Honorable D. Brook Bartlett, Chief Judge, United States District Court for the Western District of Missouri.

APPENDIX A

Estella Dunn appeals from the final judgement entered in the District Court for the Western District of Missouri upon jury verdicts for defendants in her equal pay and employment discrimination action. For reversal, Dunn raises challenges to the exclusion of evidence on one of her claims, the composition of the jury, the jury instructions, and various other matters. For the reasons discussed below, we affirm.

We first conclude the district court correctly granted defendant's motion in limine to exclude evidence as to Dunn's wrongful-termination claim. See Nichols v. American Nat'l Ins co.' 154 F.3d 875, 886 (8th Cir. 1998) (reviewing de novo district court's ruling on proper reach of Title VII claim, and for abuse of discretion grant of motion in limine). Dunn's administrative charge of discrimination related only to wage discrimination, and her federal complaint allegations of wrongful termination were not sufficiently related to her administrative charge to be considered encompassed within it. See Williams v Little Rock Mun. Water Works, 21 F.3d 218, 222-23 (8th Cir. 1994) . Second, we reject Dunn's jury composition argument, as she did not object to the jury venire panel from which the jury was selected, and her peremptory challenges were available to strike jurors she felt would be biased. See 28 U.S.C. & 1870 (party may exercise three premptory challenges). Third, Dunn's instructional-error argument fails because she failed to raise an objection in the district court. See Fed. R. Civ. P.51 (party must object to jury instructions before jury retires to consider its verdict); Keeper v. King, 130 F.3d 1309, 1315(8th Cir. 1997) (party must state matter objected to grounds of objection on record to preserve jury-instruction argument for appellate review). No plain error occurred. Last, we construe Dunn's remaining arguments as asserting bias on the district judge's part, and we reject this claim as meritless and unsupported.

APPENDIX A

Accordingly, we affirm the judgement of the district court.

A true copy.

Attest:

CLERK,U.S. COURT OF APPEALS

EIGHT CIRCUIT.

APPENDIX A

APPENDIX B

UNITED STATES DISTRICT COURT

Western District of Missouri

JUDGEMENT IN A CIVIL CASE

Estella Dunn

v.

Installation Technicians, et al.

Case Number: 95-4376-CV-C-9

X **Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.**

X **Decision by Court. This action came to trial or hearing before the Court. The issueshave been tried or heard and a decision has been rendered.**

IT IS ORDERED AND ADJUDGED

_ by verdict A of August 27, 1998, on the claim of plaintiff Estella Dunn against defendant Installation Technicians, Inc. that plaintiff was paid a rate less than the rate paid to employees of the opposite sex for equal work as submitted in Instruction 12, we, thee jury, unanimously find in favor of Installition Technician, Inc.

_ by verdict B of August 27, 1998, on thee caim of plaintiff Estella Dunn against defendant GTE Midwest that plaintiff was paid a rate less than the rate paid to employees of the opposite sex for equal work as

submitted in Instruction 16, we, the jury, unanimously find in favor off GTE Midwest.

_ by verdict C of August 27, 1998, on the claim of plaintiff Estella Dunn defendant Installation Technicians, Inc. that plaintiff was paid a lower rate than otherr employees because of plaintiff's sex as submitted in Instruction 20, we the jury, unanimously find in favor of Installation Technicians, Inc.

._ by verdict D of August 27, 1998,on the claim of plaintiff Estella Dunn against defendant GTE Midwest that plaintiff was paid a lower rate than otherr employees because of plaintiff's sex as submitted in Instruction 27, we, the jury unanimously find in favor of GTE Midwest.

ENTERED ON: August 28, 1998

(S) R.F. CONNOR

August 26, 1998

Clerk

Date

(S) J.L. R

(By) Deputy Clerk

APPENDIX B